

SN: 10/660,030
Art Unit: 1751

Remarks

Claims 1-16 are currently pending in the above-captioned matter. Claims 15 and 16 were withdrawn from consideration due to a restriction requirement by the Patent Office. Please cancel claims 15 and 16, without prejudice.

Applicant respectfully acknowledges the Examiner's indication that claims 11-14 are allowable.

Claims 1-10 are rejected. Remarks made herein are based on the claims as amended hereby.

In this amendment, claims 1 and 9 have been cancelled and claims 2-7 and 10 have been amended. New claims 17-21 have been added. New claims 17-25 are based upon the claims as originally filed in the application. After entry of this amendment claims 2-9, 10-14 and 17-25 are pending in this application; claims 11, 17 and 22 being independent.

35 USC §102 and §103 Rejections

Claims 1-8 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 02/053802.

Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Wilson (US 2002/0144718) or Wilson (US 2004/0002437).

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Figdore et al. (US 6,001,793).

Claims 1-3, 5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seaman, Jr. (US 4,978,469).

Applicant respectfully submits that the rejections in the Official Action have been obviated by the amendment and that the claims are in condition for allowance. Specifically, claim 1 and 9 have been cancelled and the claims dependent thereon have been amended to depend, directly or indirectly, from independent claim 11. Independent claim 11 has been indicated to be allowable, accordingly, it is submitted that claims 2-8 and 10 are likewise allowable.

SN: 10/660,030
Art Unit: 1751

New independent claims 17 and 22, and the claims dependent thereon, recite a combination of features that is neither taught nor suggested by the art of record. As the Office is no doubt aware, a rejection under 35 U.S.C. §102 can only be maintained if single reference teaches each and every element of the claims. The new independent claims recite a combination not found in a single reference.

Further, in order to support a rejection under 35 U.S.C. §103, the Office must establish that there was some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability, and, thus, the obviousness, of making" the modification to the art suggested by the Examiner. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q. 2d (BNA) 1434, 1438 (Fed. Cir.), *cert. denied*, 488 U.S. 825 (1988). That is, although the Office may suggest that the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the *desirability* of such modification. *In re Laskowski* 871 F.2d 115, 117, 10 U.S.P.Q.2d (BNA) 1397, 1398 (Fed. Cir. 1989).

Applicant submits that there is no suggestion or motivation to combine the references in an attempt to achieve Applicant's invention. Specifically, claim 17 recites a ratio of the alkoxylated aromatic alcohol component to the base component of less than 1:1, recites unsubstituted ethoxylated phenols and benzyl alcohols, and particular amounts of the alcohol and base. Support for this new claim is found in claims 4, 8 and 9. This combination of features is neither taught nor suggested by the art of record. Likewise, claim 22 recites particular amounts of alcohol and base, and specifies formula that the alcohol meets. Support for this new claim is found in claims 6, 7, 8 and 9. This combination of features is also not taught nor suggested by the art of record.

Double Patenting

Claims 1-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27, 29-32 and 36-39 of copending Application No. 10/871,258, claims 1-15 and 63-93 of 10/183,662

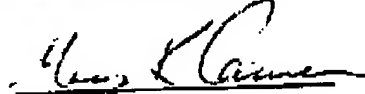
SN: 10/660,030
Art Unit: 1751

and claims 21, 23-31 and 34-37 of 10/027,445. Applicant acknowledges the provisional rejection and submits that the amendments made herein obviate the double patenting rejection where the features of the independent claims are not taught or suggested by the applications relied upon for the provisional obviousness-type double patenting rejection.

Conclusion

Applicants request reconsideration in view of the amendments and remarks contained herein. The Commissioner is hereby authorized to charge any fee required for entry of this amendment to Deposit Account No. 01-1250. Applicants submit that the claims are in condition for allowance and a notice to that effect is respectfully requested. Should the Examiner have any questions regarding this paper, please contact the undersigned.

Respectfully submitted,



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